

# **EXHIBIT 5**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
	)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO	)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc.,</i>	)	
No. 06-CV-11337-PBS	)	

**NOTICE OF NONPARTY DISCOVERY**

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, subpoenas (copies of which are attached hereto) have been issued by Defendant Abbott Laboratories, Inc. to the following entities to produce documents at the time and place indicated in the subpoena:

1. California Department of Health Services  
1501 Capitol Avenue  
Sacramento, CA 95899
2. Hawaii Department of Human Services  
Med-Quest Division  
P.O. Box 700190  
Kapolei, HI 96709-0190
3. Idaho Department of Health and Welfare  
Idaho Medicaid Policy  
3380 Americana Terrace, Suite 140  
Boise, ID 83706-2519
4. Maryland Department of Health and Mental Hygiene  
Healthchoice and Acute Care Administration  
201 West Preston Street, Room 409  
Baltimore, MD 21201
5. Montana Public Health & Human Services  
Medicaid Services Bureau  
1400 Broadway, Room A206  
P.O. Box 202951  
Helena, MT 59620-2951

6. Nevada Division of Health Care Financing and Policy  
1100 E. Williams St., Suite 116  
Carson City, NV 89701
7. Ohio Department of Jobs and Family Services  
Bureau of Health Plan Policy  
30 East Broad Street, 27th Floor  
Columbus, OH 43215
8. South Carolina Department of Health and Human Services  
P.O. Box 8206  
1801 Main Street, Suite J-12  
Columbia, SC 29202-8206
9. Utah Department of Health  
Health Care Financing  
P.O. Box 143102  
Salt Lake City, UT 84114-3102
10. Washington Department of Social and Health Services  
Medical Assistance Administration  
P.O. Box 45506  
Olympia, WA 98504

Dated: November 29, 2006

/s/ David S. Torborg

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Tina M. Tabacchi  
Brian J. Murray  
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77 West Wacker Drive, Suite 3500  
Chicago, Illinois 60601  
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*Counsel for Defendant Abbott Laboratories, Inc.*

**CERTIFICATE OF SERVICE**

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF NONPARTY DISCOVERY to be served on all counsel of record electronically by causing same to be posted via LexisNexis, this 29th day of November, 2006.

/s/ David S. Torborg  
David S. Torborg